

ORIGINAL

1 **COMP**

2 JAMES R. ROSENBERGER, ESQ.

3 Nevada Bar No. 001047

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Attorneys for Plaintiff

JAMES WOODY

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2005 DEC 23 A 11: 09

CLERK US DISTRICT COURT  
DISTRICT OF NEVADA

BY \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEVADA

JAMES WOODY,

2:05-cv-01522

Plaintiff,

v.

HONORABLE:

DEPT:

TIME:

DATE:

AMERICAN EXPRESS TRAVEL RELATED  
 SERVICES COMPANY, INC., a foreign  
 corporation; AMERICAN EXPRESS  
 CENTURION BANK, a foreign corporation;  
 EASTMAN KODAK, a foreign corporation;  
 JAFFE & ASHER, LLP, a New York limited  
 liability corporation, DOES 1-10 and ROES  
 10-20, inclusive,

Defendants.

**PLAINTIFF'S VERIFIED COMPLAINT FOR VIOLATIONS OF FAIR DEBT  
 COLLECTION PRACTICES ACT 15 U.S.C. SECTION 1692 ET. SEQ.; LIBEL;  
 UNFAIR BUSINESS PRACTICES; INTENTIONAL AND NEGLIGENT INFLICTION  
 OF EMOTIONAL DISTRESS, AND DEMAND FOR JURY TRIAL**

Plaintiffs alleges:

I.

## INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 et. seq. (hereinafter

"FDCPA"), which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

**Plaintiff demands a jury trial.**

## **II.**

### **JURISDICTION**

2. Jurisdiction and venue is proper before this Court pursuant to 15 USC § 1681p, in that Defendants' violations of the Fair Debt Collection Practices Act and the Fair Credit Reporting Act are governed by federal law and Woody alleges more than \$75,000.00 in damages.

3. Woody is an individual residing primarily in the State of Nevada.

4. Defendant, American Express Travel Related Services Company, Inc., is a foreign corporation, not created or specifically qualified to do business in the State of Nevada, but providing credit and/or credit accounts to Nevada residents.

5. Defendant, American Express Centurion Bank., is a foreign corporation, not created or specifically qualified to do business in the State of Nevada, but providing credit and/or credit accounts to Nevada residents.

6. Defendant, Jaffe & Asher, LLP, is a limited liability professional entity existing by virtue of the laws of the State of New York.

7. Defendant, Eastman Kodak, is a foreign corporation that provides photographic equipment and supplies throughout the world.

8. (DOE Defendants)

9. Plaintiff is informed and believes, and thereon alleges, that each of the defendants is, and at all times relevant herein was, the agent, employee or alter ego of each of the remaining co-defendants, and in committing the acts herein alleged, was acting in the scope of their authority

1 as such agents, employees or alter egos, and with the permission and consent of the remaining  
2 co-defendants.

3 **IV.**

4 **FACTUAL ALLEGATIONS**

5 10. James Woody repeats and realleges and incorporates by reference paragraphs 1  
6 through 12 as though fully stated herein.

7 11. James Woody (hereinafter "Woody"), an individual consumer had approximately  
8 three (3) consumer credit accounts with American Express, beginning in approximately calendar  
9 year 1991.

10 12. Woody maintained his accounts with American Express and used them for, among  
11 other things, to purchase photographic and reproduction supplies from Eastman Kodak for Woody's  
12 business, then known as Brentwood Imaging.

13 13. In calendar year 2002, Eastman Kodak provided certain defective and unusable  
14 photographic equipment and supplies that could not be used in Woody's business due to the  
15 defective character of the supplies.

16 14. Woody made efforts to contact Eastman Kodak and its' representatives to return the  
17 defective and unusable product, but Eastman Kodak failed and refused to accept re-delivery or return  
18 of the defective product.

19 15. Woody contacted American Express and gave direction to charge-back Eastman  
20 Kodak charges of approximately \$30,000.00 for the defective and unusable product supplied by  
21 Eastman Kodak.

22 16. American Express initially agreed to charge back Eastman Kodak charges against  
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1 Woody in the amount of approximately \$18,000.00.

2 17. Eastman Kodak then, by and through its executive employee, John Keazior, told  
3 Woody that Eastman Kodak would not stand for the charge backs and in approximately November  
4 2002, Eastman Kodak directed American Express to terminate Woody's accounts with American  
5 Express, even though they were still in good standing.

6 18. In November 2002, American Express advised Woody that they found his claims  
7 regarding defective and unuseable Eastman Kodak product to be false and unsubstantiated. At the  
8 same time, American Express advised Woody that they would be closing his three (3) accounts.

9 19. At the same time, American Express advised Woody that he would need to pay  
10 \$55,000.00 on or before December 16, 2002.

11 20. American Express employee Jim Beetle spoke with Woody on or about December  
12 16, 2002 and advised that he would wait until December 29, 2002 for the \$55,000.00 payment  
13 demanded.

14 21. On or before December 29, 2002, Woody wired \$55,000.00 directly to American  
15 Express in order to reinstate his accounts with American Express.

16 22. Woody's next contact regarding this matter was with the Collection Attorney's Jaffe  
17 & Asher on behalf of American Express, by and through attorney Jim Baden, on or about January  
18 3, 2003. Mr. Baden advised Woody that he owed American Express \$90,000.00 in order to satisfy  
19 his accounts with American Express.

20 23. Of course, Woody took issue with Jim Baden's/Jaffe & Asher's statement on January  
21 3, 2003 that he owed \$90,000.00 and demanded to see statements confirming the amount that Mr.  
22 Baden was representing as being due and owing to American Express.

1           24.     In January 2003, Woody made payments to American Express of approximately  
2     \$1,500.00, which payments were accepted by American Express.

3           25.     Beginning in approximately March 2003, Woody made payments to Jaffe & Asher  
4     of approximately \$3,000.00-\$4,000.00 while he was waiting for American Express and/or Jaffe &  
5     Asher to provide him with the American Express statements that would account for the amount due  
6     and owing to American Express.

7           26.     In approximately August 2003, Jaffe & Asher attorney Pamela Cohen communicated  
8     with Woody that he now owed American Express \$38,000.00 in order to satisfy his accounts. When  
9     Woody told Cohen that he would not make any further payments until he received the statements  
10    that he had requested from American Express evidencing the amounts due and owing, Woody was  
11    told by Pamela Cohen that "I am going to trash your credit", in violation of 15 U.S.C.-1692d(1) and  
12    15 U.S. C. 1692(e)(8)

13           27.     Shortly after that conversation in August or September 2003, Jaffe & Asher did  
14     supply some statements from American Express, but those statements memorialized the time frame  
15     up to and including only October 2002.

16           28.     Woody has requested and demanded copies of the statements that reportedly reflect  
17     the amounts due and owing to American Express for more than two (2) years since that date.

18           29.     In approximately May 2005, Jaffe & Asher provided statements ostensibly from  
19     American Express, but again, those statements do not include the period of December 2002 or  
20     January 2003, a violation of 15 U.S.C. 1692ga(1).

21           30.     To date, American Express and/or Jaffe & Asher has not responding to an accounting  
22     showing how the \$55,000.00 or more paid by Woody in December 2002 and January 2003 was  
23     24     25



1 credited to Woody's accounts, a violation of 15 U.S.C. 1692-9(a)(1).

2 31. To date, Woody does not know if the Eastman Kodak charge backs were added to  
3 his accounts in order to justify the current demand of American Express for \$38,000.00, a violation  
4 of 15 U.S.C. 1692 § 809(5)(b).

5 32. At this time, American Express and Jaffe & Asher justify its demand for \$38,000.00  
6 using the American Express account statements through November 2002. These statements do not,  
7 however, reflect how the \$55,000.00 payment made in December 2002 was credited or accounted  
8 with regard to the said accounts.

9 33. American Express and/or Jaffe & Asher have made false representations to various  
10 credit reporting agencies that Woody's accounts were closed as of June 2002, when in fact these  
11 accounts were in good standing and being used by Woody through the middle of November 2002,  
12 a violation of 15 U.S.C. 1692(e).

13 34. American Express and/or Jaffe & Asher have made false representations to various  
14 credit reporting agencies by failing to reflect or account for any credit for payments made in  
15 December 2002 and January 2003, of between \$55,000.00 and \$60,000.00 by Woody. These credit  
16 reporting agencies are mistaken in their understanding that American Express charged-off almost  
17 \$70,000.00 of accounts, due to the fact that they were provided with erroneous information by  
18 American Express and/or Jaffe and Asher and have relied upon that erroneous information when in  
19 fact most or all of these accounts were in fact paid, a violation of 15 U.S.C. 1692 § 807(2)(a).

20 35. Defendants, and each of them, acting in agency with the others, knowingly and  
21 willfully communicated to credit reporting agencies information regarding a untrue delinquency in  
22 payments on account by James Woody, a violation of 15 U.S.C. 1692 § 807(2)(a).

1           36. James Woody has been unable to secure services from various vendors, due to the  
2 derogatory and false information reported by defendant to credit reporting agencies.

3           37. As a further direct and proximate result of defendants, and each of them, acting in  
4 agency with the others, stated herein, James Woody was refused additional credit from other credit  
5 agencies and suffered humiliation, embarrassment, anxiety, emotional distress and defamation of  
6 character.

7           38. As a direct and proximate result of defendant's acts stated herein, James Woody was  
8 refused, additional credit from other credit agencies, and suffered humiliation, embarrassment,  
9 anxiety, emotional distress and defamation of character.

10           39. As a further direct and proximate result of the unreasonable and unsubstantiated false  
11 reports of James Woody's credit card history, and the wilful, untrue and knowingly made  
12 communications by the defendants, and each of them acting as agent for the others, and the  
13 defendants refusal to rectify their errors as stated herein, James Woody suffered actual damages and  
14 incurred costs and expenses, in an amount to be proven at trial.

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1           40.     The reasonable value of the services rendered by the attorney and to be rendered by  
2 the attorney to James Woody will be in a sum to be determined and proven at trial.

3           DATED this 20th day of December 2005.

4                               RESPECTFULLY SUBMITTED:

5                               PICO ESCOBAR ROSENBERGER, Ltd.

6  
7                               By:   
8                               JAMES R. ROSENBERGER, ESQ.  
9                               Nevada Bar No. 001047

10                              2000 South Eastern Avenue  
11                              Las Vegas, Nevada 89104  
12                              Attorneys for Plaintiff  
13                              JAMES WOODY

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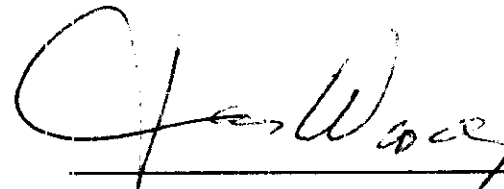


VERIFICATION OF JAMES WOODY

STATE OF NEVADA       )  
   ) ss:  
 COUNTY OF CLARK       )

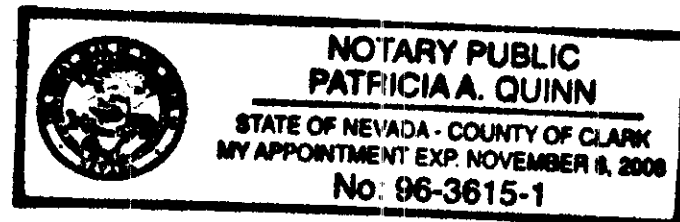
JAMES WOODY, being first duly sworn, deposes and says:

That he is the Plaintiff in the above entitled action; that he has read the foregoing **COMPLAINT** and knows the contents thereof, and that the same is true of his own knowledge except for those matters therein stated on information and belief, and as for those matters he believes them to be true.

  
 JAMES WOODY

SUBSCRIBED and SWORN to before  
 me on this 20<sup>th</sup> day of December, 2005.

  
 NOTARY PUBLIC, in and for said  
 County and State.



PICO ESCOBAR ROSENBERGER, LTD.

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